IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 30TH JULY 2007 / 8TH SRAVANA 1929

Bail Appl..No. 4651 of 2007()

CRIME NO.408/07 OF ERNAKULAM TOWN NORTH POLICE STATION

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PETITIONERS/ACCUSED 1 & 2

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1. NAJEEB V.H., VARIKKADAN HOUSE,
   2079 A 5961 NR. FIRE STATION,
   PERUMBAVOOR, COCHIN-683542.

2. NUSAIN, VARIKKADAN HOUSE,
   2079 A 5961 NR FIRE STATION,
   PERUMBAVOOR, COCHIN-683542.

BY ADV. SRI.SALIM V.S.
SRI.RAFFEEKH.K

RESPONDENTS: COMPLAINANTS

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1. SUB INSPECTOR OF POLICE,
   ERNAKULAM TOWN NORTH POLICE STATION,
   ERNAKULAM.

2. STATE OF KERALA, REPRESENTED BY
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 30/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. NO.4651 OF 2007

Dated this the 30th day of July, 2007

ORDER

Application for anticipatory bail. The petitioners face allegations, inter alia, under Sec.420 of the IPC. A crime was registered on the basis of a complaint lodged before the learned Magistrate and referred by the learned Magistrate to the police under Sec.156(3) of the Cr.P.C. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioners submits that even if the entire allegations were accepted, it can only reveal breach of civil liability to repay the amount. The criminal complaint has been filed with vexatious intent. The attempt transparently is to make use of the criminal adjudicatory process to vex and harass the petitioners. Anticipatory bail can, in these circumstances, be granted to the petitioners, it is submitted.

3. The learned Public Prosecutor does not oppose the application. Appropriate conditions may be imposed in the interests of a fair, efficient and expeditious investigation, submits the learned Public Prosecutor.

4. In the facts which have briefly referred to above, I am satisfied that anticipatory bail can be granted to the petitioners subject to appropriate conditions.

5. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioners shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 6/8/07. They shall be released on regular bail on their executing bonds for Rs.25,000/- each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 1 p.m. on 7/8/07 and 8/8/07 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months. Subsequently, they shall so make themselves available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(iii) If the petitioners do not appear before the learned

Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if those directions were not issued at all;

(iv) If the petitioners were arrested prior to their surrender on 6/8/07 as directed in clause (i) above, they shall be released on their executing bonds for Rs.25,000/- each without any sureties undertaking to appear before the learned Magistrate on 6/8/07.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge